Dr.K.L.Rajpurohit & Ors. vs.Jai Narain Vyas University, Jodhpur & ors.

1.SB Civil Writ. Petition No.4619/2006

Ram Singh Choudhary vs. The Vice Chancellor , Jai Narain Vyas University, Jodhpur & Ors.

2. SB Civil Writ Petition No. 5120/2006

Date of Order: 15th November, 2006.

PRESENT

HON'BLE MR.JUSTICE BHAGWATI PRASAD

Mr.J.P.Joshi] for the petitioners.
Mr.Himanshu Shrimali]

Mr.P.S.Bhati] for the respondent University.
Mr.D.C.Sharma]
Mr.V.K.Mathur for U.G.C.

Mr.N.M.Lodha, Addl. Advocate General.

BY THE COURT:-

The controversy involved in these writ petitions has already been adjudicated by this Court in Dr.Dhanpat Raj Bhandari & Anr. vs. the Union of India & Ors. (SB Civil Writ. Petition No.23/2005) decided on 15th November, 2006.

Apart from the questions decided in the judgment in

question, the learned counsel raised two additional questions. One was that there had been no recruitment in the University, therefore, retiring the existing teachers would not serve a good purpose for the University. Another question raised is, the University Syndicate resolved to raise the age of retirement. Both these grounds are not considered sufficient for the simple reason that if one illegality has been committed by the University by not holding recruitment, then that is not good enough to take another illegal view. Till date the law governing the services of the University teachers are to the effect that they are to be retired at the age of 60. The recommendation of the UGC have been diluted by the UGC itself in the reply filed and considered in another writ petition. The Central Government law also gives an option to the UGC to frame Regulations and the UGC, in its reply, has stated that it is open to the State Government to accept it or not to accept it. Thus, merely because the University has not made the recruitment, is not enough to keep such teachers in service who have attained the age of superannuation.

As regards the resolution of the Syndicate, the resolution of the Syndicate has been sent to the State Government. The stand of the State Government is available on the record of another writ petition and has been considered in the judgment referred herein above that State is not in favour of enhancing the age of

superannuation. It is not for the employees to canvass that their age of retirement should be altered as per UGC resolution . It is not fair for the employer University to take a stand in the Syndicate when it has so far not amended the Statutes or the Ordinances, which prescribe the law for attaining the superannuation. In any case, in other case the University has taken a stand that it is bound by orders of State and State has clearly stated that the age cannot be altered.

In that view of the matter, there is no force in the argument. Both the arguments deserves no merit.

The writ petitions are accordingly dismissed.

(BHAGWATI PRASAD), J.

L.George